

Introduced by Senator Harman

February 21, 2007

An act to amend Section 704.720 of the Code of Civil Procedure, relating to homestead exemptions.

LEGISLATIVE COUNSEL'S DIGEST

SB 433, as amended, Harman. Homestead exemptions.

Existing law provides for a homestead exemption for judgment debtors. Existing law governs circumstances under which the exemption is applicable, the amount that may be exempt, and the duration of the exemption.

This bill would provide that a judgment debtor who is not currently residing in the homestead is entitled to the exemption while a separated or former spouse resides in or exercises control over the possession of the homestead until entry of judgment or other legally enforceable agreement dividing the community property, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 704.720 of the Code of Civil Procedure
- 2 is amended to read:
- 3 704.720. (a) A homestead is exempt from sale under this
- 4 division to the extent provided in Section 704.800.
- 5 (b) If a homestead is sold under this division or is damaged or
- 6 destroyed or is acquired for public use, the proceeds of sale or of

1 insurance or other indemnification for damage or destruction of
2 the homestead or the proceeds received as compensation for a
3 homestead acquired for public use are exempt in the amount of
4 the homestead exemption provided in Section 704.730. The
5 proceeds are exempt for a period of six months after the time the
6 proceeds are actually received by the judgment debtor, except that,
7 if a homestead exemption is applied to other property of the
8 judgment debtor or the judgment debtor's spouse during that
9 period, the proceeds thereafter are not exempt.

10 (c) If the judgment debtor and spouse of the judgment debtor
11 reside in separate homesteads, only the homestead of one of the
12 spouses is exempt and only the proceeds of the exempt homestead
13 are exempt.

14 (d) If a judgment debtor is not currently residing in the
15 homestead, but his or her separated or former spouse continues to
16 reside in or exercise control over possession of the homestead, that
17 judgment debtor continues to be entitled to an exemption under
18 this article until entry of judgment or other legally enforceable
19 agreement dividing the community property between the judgment
20 debtor and the separated or former spouse, or until a later time
21 period as specified by court order. *Nothing in this subdivision shall*
22 *entitle the judgment debtor to more than one exempt homestead.*
23 *Notwithstanding subdivision (d) of Section 704.710, for purposes*
24 *of this article, "spouse" may include a separated or former spouse*
25 *consistent with this subdivision.*